

ZONING BOARD OF ADJUSTMENT

DRAFT - Meeting Minutes of March 15, 2011

ATTENDEES: Doug Kirkwood - Chairman, Carl Miller, Jamie Ramsay, Joe Taggart, and Charlie Tiedemann – Planning Director

The meeting opened at 7:00 p.m., Doug Kirkwood made introductions and explained the process.

CASE 1457: LOT 24-65 GREENWOOD ROAD: Variances – Diane Zsofka, 27 Greenwood Road, Amherst NH 03031 (owner), requests Variances from the provisions of the Amherst Zoning Ordinance Art. IV, Sec. 4.3 Residential / Rural Zone, subsec. 4.3.3 Yard Requirements, Para. 4.3.3.3 in order that they may construct a freestanding shed that will be 14.6 feet from the side property line (20 feet required) and 35.7 feet from the street line (50 feet required). Residential / Rural Zone (Watershed Protection District and Flood Plain Conservation District Overlays)

Attorney Greg Michael representing the applicant presented the plan; which indicates where the detached shed is proposed and provided profiles and elevations, that showed the site in a nook between the house and the septic system. This would not increase encroachment. The applicant would like to build the shed to look integrated with the house to store personal items and equipment. The septic is located the farthest point from the lake; this is a grandfathered lot of record. It is an existing structure that has been upgraded over the years.

This will not be contrary to public interest; the shed location is within the existing residential envelope on the site and creates no greater encroachment than what currently exists. Spirit of Ordinance – the Ordinance has setbacks but the Ordinance does not embrace all the different lots and parcels that exist within the Town. Baboosic Lake is one of the older areas of development in Town. The setback was to create separation between lots. The people living near the lake try to adhere to the Ordinances. This does not alter the character of the neighborhood nor threaten the public safety or welfare. No public rights are affected; substantial justice – this would not benefit the public but substantial justice would allow this to occur. The shed would be integrated into the house style. The applicants do not wish to make the house look bad but they want it to be right and they do not see any diminution of values. This will not affect the fair and substantial relationship with the neighborhood. The lot makes it difficult to move the house; it is believed the use is reasonable. Attorney Michael finished the presentation and has covered the five points. This would allow reasonable expansion.

Doug Kirkwood asked about the edge of the shed being slightly over the edge of the septic tank. Attorney Michael believes it is just what it is on the plan. Charlie Tiedemann noted the manholes to get in the tank are exposed. The shed can be moved if it is needed to get to the septic tank. Attorney Michael said the shed will not be affixed to

the house and could be moved. Jamie Ramsay asked why it is proposed as detached as opposed to attached? Attorney Michael could not answer the question, it looks like it is attached but it is actually detached. There were no further questions.

Doug Kirkwood noted that there is not a full complement of the board here tonight and if Attorney Michael does not wish to continue we will not. Attorney Michael wished to continue.

DELIBERATIONS:

Jamie Ramsay moved to enter deliberations. Carl Miller seconded. All were in favor.

Carl Miller moved there is no regional impact. Jamie Ramsay seconded. All were in favor.

II. Conclusions [RSA 674:33, I (b)]:

1. The Variance will not be contrary to the public interest.

Carl Miller true, most people would not even notice this; Joe Taggart true; Jamie Ramsey true the shed will be integrated with the house pretty well; Doug Kirkwood true.

True: 4, Not True: 0

2. The Variance is consistent with the spirit and intent of the Ordinance.

Joe Taggart true, this will not impact the side lot and does not encroach the front any more than the carport; Jamie Ramsay true this will not affect the health safety or welfare of the public; Doug Kirkwood true, noting this is a grandfathered lot, the nonconforming use is not expanded; Carl Miller true

True: 4, Not True: 0

3. Substantial justice is done.

Jamie Ramsay true the applicant can enjoy their property to store equipment; Carl Miller true; Joe Taggart true and the neighbors will no longer need to see the equipment, Doug Kirkwood true

True: 4, Not True: 0

4. The values of surrounding properties will not be diminished.

Carl Miller true, this should not affect the value of the property; Jamie Ramsay true it does not change the scale of the property; Joe Taggart true and it may be a benefit to abutters since they will no longer see equipment; Doug Kirkwood true

True: 4, Not True: 0

5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

(Apply tests under A or B below)

92 A. For purposes of this subparagraph, “unnecessary hardship” means that, owing
93 to special conditions of the property that distinguish it from other properties in the area:
94

95 (1) No fair and substantial relationship exists between the general public
96 purposes of the Ordinance provision and the specific application of that provision to the
97 property; and
98

99 (2) The proposed use is a reasonable one.
100 Jamie Ramsay true; this is an excellent example that the shed could not be built anywhere
101 without some encroachment on the side lots and there is no enclosed garage and it is a
102 reasonable use to have an enclosed storage area for equipment; Jamie Ramsay true, Carl
103 Miller true, Doug Kirkwood true
104 True: 4, Not True: 0
105

106 B. If the criteria in subparagraph A are not established, an unnecessary hardship
107 will be deemed to exist if, and only if, owing to special conditions of the property that
108 distinguish it from other properties in the area, the property cannot be reasonably used in
109 strict conformance with the Ordinance, and a Variance is therefore necessary to enable a
110 reasonable use of it.
111

112 This application has passed all the tests therefore the Chairman declared that the Variance
113 is granted.
114

115 **OLD BUSINESS:**
116

117 Doug Kirkwood asked Attorney Michael about the reviewing of tests. Attorney Michael
118 said each community performs the tests differently. Doug Kirkwood said if an applicant
119 passes the five tests, how can the ZBA can say no.
120

121 *Carl Miller moved to come out of deliberations at 7:25 p.m. Jamie Ramsey seconded.*
122 *All were in favor.*
123

124 **Minutes 2/15/11**
125

126 Doug Kirkwood noted the majority of those present at the February meeting are present.
127

128 *Jamie Ramsay moved to approve the minutes of 2/15/11. Carl Miller seconded.*
129

130 Discussion: Doug Kirkwood asked if the Draft watermark is shown on the internet.
131 Charlie Tiedemann does not believe it is visible until it is printed, so he will have to come
132 up with a different manner of noting that the minutes are Draft.
133

134 *All were in favor of the motion.*
135

136 **Minutes 11/16/10**
137

138 Because there was no meeting in December and the January meeting was snowed out,
139 then the February meeting was so long the minutes were not reviewed, so here are the
140 November minutes. Charlie Tiedemann briefly reviewed the topics of that meeting.

141
142 Carl Miller and Joe Taggart reviewed the draft minutes on the internet; Charlie
143 Tiedemann noted if the Board would like to wait and review them next month that would
144 be fine. Doug Kirkwood asked that Charlie Tiedemann remind members to review and
145 send another copy for review for the next meeting.

146
147 Jamie Ramsay welcomed Joe Taggart as a new member. Doug Kirkwood said there were
148 a lot of interesting votes. Charlie Tiedemann also noted there were six absentee ballots
149 received the day after voting.

150
151 *Carl Miller moved to adjourn at 7:50 p.m. Joe Taggart seconded. All were in favor.*

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153 The meeting was adjourned at 7:50 p.m.

154
155 Respectfully submitted,

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157
158 Darlene J. Bouffard
159 Recording Secretary
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